



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,332	02/05/2002	Stuart Baird Revill	9100-8	8820

30448 7590 04/06/2006

AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
----------	--------------

1772

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/068,332

Applicant(s)

REVILL, STUART BAIRD

Examiner

Marc A. Patterson

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The amendment filed January 18, 2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The phrase 'divided by a longitudinal seam into a larger diameter portion and a smaller diameter portion' does not appear in the original specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

NEW REJECTIONS

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1 – 3 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The phrase 'divided by a longitudinal seam into a larger diameter portion and a smaller diameter portion' does not appear in the original specification.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 – 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase ‘the latter’ in Claim 1 is indefinite as its meaning is unclear. For purposes of examination, the phrase will be interpreted to mean ‘the meat.’

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 – 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maar (German Patent 2546278 B1) in view of Mintz et al (U.S. Patent No. 5,413,148).

With regard to Claim 1, Maar discloses a sleeve (flexible tube; page 9, line 2, of second paragraph of English translation) of netting (a net; page 10, lines 4 – 5 of first paragraph of English translation) that is elasticated (it consists of threads of a highly elastic material; page 10, lines 12 – 14 of English translation) which is provided with a seam (a connection between longitudinal threads ‘4’ and an opposite mesh ‘2’ by a pull thread ‘7’ as shown in Figure 1; page 10, lines 17 – 19 of English translation) and will not become embedded in the surface of a product when it is cooked (in the condition of roasting, the net imparts only an extremely slight

Art Unit: 1772

radial force so that the net is not pressed into the roasting crust; page 6, final line of second paragraph; page 7, lines 1 – 3 of English translation). Maar fails to disclose a netting that is divided by the seam into a larger diameter portion and a smaller diameter portion such that when a meat product is encapsulated in the larger diameter portion, the smaller diameter portion is held in contact with the meat product only at the seam.

Mintz et al teaches the use of netting (column 3, lines 50 – 51) for the containment of a product in which the center has a larger diameter than the ends (column 4, lines 43 – 46) for the purpose of using a container that allows the product to bulge outwardly (column 4, lines 43 – 46). One of ordinary skill in the art would therefore have recognized the advantage of providing for the product of Mintz et al in Maar, which comprises a netting, depending on the desired bulging of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a product in which the center has a larger diameter than the ends in Maar in order to allow the product to bulge outwardly as taught by Mintz. Maar discloses only one seam, as discussed above, and the netting is therefore held together as a sleeve only because of the existence of the seam. Maar would therefore comprise a netting that is divided by the seam into a larger diameter portion and a smaller diameter portion such that when a meat product is encapsulated in the larger diameter portion, the smaller diameter portion is held in contact with the meat product only at the seam. With regard to the claimed aspect of the smaller diameter portion being a portion that can be lifted away from the meat product to raise the meat product by grasping the smaller diameter portion at a position spaced from the meat product, the netting does not become embedded in the surface of meat

when it is cooked, as stated above, and therefore can be lifted away from the meat product to raise the meat product by grasping the smaller diameter portion at a position spaced from the meat product; furthermore, the claimed aspect is directed to method of using the netting rather than a structural limitation, and is therefore given little patentable weight.

With regard to Claim 2, the seam disclosed by Maar extends longitudinally of the sleeve offset from the center of the sleeve (the seam extends in the lengthwise direction of the sleeve, as shown in Figure 1, and therefore extends longitudinally; it is also offset from the center of the sleeve because it is in the wall of the sleeve, rather than being located in the center of the inside of the sleeve); the projection is a bulge, as stated above, and is therefore a small portion of the width of the sleeve, and is also isolated by the seam from the remainder of the sleeve because the seam is a connection between longitudinal threads and is therefore maintains the shape of the sleeve.

With regard to Claim 3, the seam disclosed by Maar is sewn with yarn stitches (the longitudinal threads, therefore yarns, can consist of stitch wales; page 10, line 6 of English translation) which become undone, and therefore unravel, when the pull thread, therefore also a yarn, is pulled, because the net is separated when the pull thread is pulled.

ANSWERS TO APPLICANT'S ARGUMENTS

8. Applicant's arguments regarding the 35 U.S.C. 103(a) rejection of Claims 1 – 3 as being unpatentable over Maar (German Patent 2546278 B1) in view of Mintz et al (U.S. Patent No. 5,413,148), of record in the previous Action, have been carefully considered but have not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 3 of the remarks dated January 18, 2006, that no new matter has been added as a result of the amendment to Claim 1.

However, as stated above, the disclosure of a smaller portion which has a diameter, and is therefore a circle or an oval, is not disclosed in the original specification. The amendment therefore constitutes new matter. The new matter has been considered, however, in the new rejection above.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marc Patterson 4/3/06
Marc A. Patterson, PhD.
Primary Examiner
Art Unit 1772